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By: Loren D. Pearson Date: September 9, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Jens Barrenscheen et al.
Applic. No. : 09/124,288
Filed : July 28, 1998
Title : Memory Device And Method For Operating The
Memory Device
Attention : Office of Petitions

PETITION TO REVIVE UNDER 37 C.F.R. §1.137(B)
AND REQUEST TO RESCIND THE NOTICE OF ABANDONMENT

Box Petitions
Assistant Commissioner for Patents
Washington, DC 20231

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S i r :

Please revive this unintentionally abandoned patent application. The following is a statement of the case.

09/17/2002 BNGUYEN1 00000056 09124288
01 FC:141 1280.00 OP

Adjustment date: 08/05/2003 EEKUBAY1
09/17/2002 BNGUYEN1 00000056 09124288
01 FC:141 -1280.00 OP

0030012361
Refund Ref: 08/05/2003
Credit Card Refund Total: \$1280.00
An Exp.: XXXXXXXXXXXX1005

- An Office action for the above-identified application issued April 12, 2000, setting a shortened statutory period of three months for response. An amendment was mailed on September 12, 2000, according to 37 C.F.R. § 1.8 and included a petition and fee for two-month extension. This response stopped the tolling of the deadline of the non-final action.

- On January 25, 2001, the Examiner telephoned undersigned counsel to ask that the specification be further amended to correct two formalistic errors in the specification.

- On January 25, 2001, a supplemental amendment was faxed to the Examiner. The supplemental amendment included the corrections requested by the Examiner. In addition, the supplemental amendment included further changes to the claims suggested by the inventors. The supplemental amendment included a version showing marks on a separate sheet and a clean copy, pursuant to revised 37 CFR 1.121(a)(2)(ii).

- On February 27, 2001, the Examiner mailed a Notice of Non-Responsive Amendment stating that the Supplemental Amendment did not conform to 37 CFR 1.121(a)(2)(ii).

- On March 2, 2002, the date that the Notice of Non-Responsive Amendment was received, undersigned counsel telephoned the Examiner and left voicemail asking her to confirm that the amendment was in fact non-responsive.
- On March 13, 2001, the Examiner telephoned and stated that she had found the missing sheets. Therefore, the Notice of Non-Responsive Amendment was moot and did not need to be answered.
- On July 11, 2002, undersigned counsel received a Notice of Abandonment dated July 8, 2002.
- In two teleconferences on July 12, 2002, undersigned counsel discussed the history of the case, in particular, the conclusion from March 13, 2001, that no further response was required. The Examiner stated that because so much time had passed, her authority to revive the case was limited and that we should petition to revive the case and request a refund of the petition fee.

Applicants state that the abandonment was not the fault of the Applicants because no Office action was outstanding.

Therefore, any abandonment was unintentional. Furthermore, any delay in filing this grantable petition pursuant to 37 C.F.R. 1.137 was unintentional.

Applicants request that the application be reinstated under 37 C.F.R. §1.137(b). The petition fee in the amount of \$1,280.00 in accordance with Section 1.17(m) is enclosed herewith.

In addition, Applicants request that the Commissioner rescind the Notice of Abandonment because in light of the proper response, no Office action was outstanding.

Furthermore, the Commissioner is asked to refund the petition fee because, as admitted by the Examiner, the application was improperly abandoned due to no fault of the Applicants.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account No. 12-1099 of Lerner and Greenberg, P.A..

Respectfully submitted,



LOREN DONALD PEARSON
REG. NO. 42,987

For Applicants

Date: September 9, 2002

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